



General Assembly

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Amendment

LCO No. 7982

SB0109707982HDO

Offered by:

REP. NARDELLO, 89th Dist.

To: Subst. Senate Bill No. 1097

File No. 214

Cal. No. 652

**"AN ACT CONCERNING REGULATION OF
TELECOMMUNICATIONS SERVICES."**

1 Strike section 1 and insert the following in lieu thereof:

2 "Section 1. Section 16-247f of the general statutes is repealed and the
3 following is substituted in lieu thereof (*Effective July 1, 2005*):

4 (a) The department shall regulate the provision of
5 telecommunications services in the state in a manner designed to foster
6 competition and protect the public interest.

7 (b) Notwithstanding the provisions of section 16-19, [a
8 telecommunications service] the following telecommunications
9 services shall be deemed competitive services: (1) A
10 telecommunications service offered on or before July 1, 1994, by a
11 certified telecommunications provider and a wide area telephone
12 service, "800" service, centrex service or digital centrex service offered
13 by a telephone company, [shall be deemed a competitive service. Any]
14 (2) a telecommunications service offered to business customers by a

15 telephone company, (3) a home office service offered by a telephone
16 company, and (4) a telecommunications service provided by a
17 telephone company or its affiliate to a residential customer who
18 subscribes to three or more telephone company services, including
19 basic local exchange service, any vertical feature or interstate toll.
20 Unless reclassified pursuant to this section, any other service offered
21 by a telephone company on or before July 1, 1994, shall be deemed a
22 noncompetitive service, provided such initial classification shall not be
23 a factual finding that such service is noncompetitive. Notwithstanding
24 subdivision (3) of subsection (c) of section 16-247b, prior to January 1,
25 2010, a telephone company shall not obtain a waiver from the
26 department of the pricing standard set forth in subdivision (1) of
27 subsection (c) of section 16-247b for any service reclassified as
28 competitive pursuant to subdivision (2), (3) or (4) of this subsection.

29 (c) On petition, on its own motion, or in conjunction with a tariff
30 investigation conducted pursuant to subsection (f) of this section, after
31 notice and hearing, and within ninety days of receipt of a petition or its
32 motion or within the time period set forth in subsection (f) of this
33 section, as applicable, the department may reclassify a
34 telecommunications service as competitive, emerging competitive or
35 noncompetitive, in accordance with the degree of competition which
36 exists for that service in the marketplace, provided (1) a competitive
37 service shall not be reclassified as an emerging competitive service and
38 (2) the department may extend the period (A) before the end of the
39 ninety-day period and upon notifying all parties to the proceedings by
40 thirty days, or (B) in accordance with the provisions of subsection (f) of
41 this section, as applicable.

42 (d) In determining whether to reclassify a telecommunications
43 service, the department shall consider:

44 (1) The number, size and geographic distribution of certified
45 telecommunications providers of the service, provided the department
46 shall not reclassify any service as competitive if such service is
47 available only from a telephone company or an affiliate of a telephone

48 company that is a certified telecommunications provider;

49 (2) The availability of functionally equivalent services in the
50 relevant geographic area at competitive rates, terms and conditions,
51 including, but not limited to, services offered by certified
52 telecommunications providers, providers of commercial mobile radio
53 services, as defined in 47 CFR 20.3, voice over Internet protocol
54 providers and other services provided by means of alternative
55 technologies;

56 [(3) The financial viability of each company providing a functionally
57 equivalent service in the relevant market;]

58 [(4)] (3) The existence of barriers to entry into, or exit from, the
59 relevant market;

60 [(5) Other indicators of market power which the department deems
61 relevant, which may include, but not be limited to, market penetration
62 and the extent to which the provider of the service can sustain the
63 price for the service above the cost to the company of providing that
64 service;

65 (6) The extent to which other telecommunications companies must
66 rely upon the service to provide their telecommunications services;]

67 [(7)] (4) Other factors that may affect competition; and

68 [(8)] (5) Other factors that may affect the public interest.

69 (e) Each certified telecommunications provider and each telephone
70 company shall file with the department a new or amended tariff for
71 each competitive or emerging competitive intrastate
72 telecommunications service authorized pursuant to section 16-247c. A
73 tariff for a competitive service shall be effective on five days' written
74 notice to the department. A tariff for an emerging competitive service
75 shall be effective on twenty-one days' written notice to the department.
76 A tariff filing for a competitive or emerging competitive service shall
77 include (1) rates and charges which may consist of a maximum rate

78 and a minimum rate, (2) applicable terms and conditions, (3) a
79 statement of how the tariff will benefit the public interest, and (4) any
80 additional information required by the department. A telephone
81 company filing a tariff pursuant to this section shall include in said
82 tariff filing the information set forth in subdivisions (1) to (4), inclusive,
83 of this subsection, a complete explanation of how the company is
84 complying with the provisions of section 16-247b and, in a tariff filing
85 which declares a new service to be competitive or emerging
86 competitive, a statement addressing the considerations set forth in
87 subsection (d) of this section. If the department approves a tariff which
88 consists of a minimum rate and a maximum rate, the certified
89 telecommunications provider or telephone company may amend its
90 rates upon five days' written notice to the department and any notice
91 to customers which the department may require, provided the
92 amended rates are not greater than the approved maximum rate and
93 not less than the approved minimum rate. A promotional offering for a
94 previously approved competitive or emerging competitive tariffed
95 service or a service deemed competitive pursuant to section 16-247f
96 shall be effective on three business days' written notice to the
97 department.

98 (f) On petition or its own motion, the department may investigate a
99 tariff or any portion of a tariff, which investigation may include a
100 hearing. The department may suspend a tariff or any portion of a tariff
101 during such investigation. The investigation may include, but is not
102 limited to, an inquiry to determine whether the tariff is predatory,
103 deceptive, anticompetitive or violates the pricing standard set forth in
104 subdivision (1) of subsection (c) of section 16-247b. Not later than
105 seventy-five days after the effective date of the tariff, unless the party
106 filing the tariff, all statutory parties to the proceeding and the
107 department agree to a specific extension of time, the department shall
108 issue its decision, including whether to approve, modify or deny the
109 tariff. If the department determines that a tariff filed as a new service
110 is, in fact, a reclassification of an existing service, the department shall
111 review the tariff filing as a petition for reclassification in accordance

112 with the provisions of subsection (c) of this section.

113 (g) The provisions of this section shall not prohibit the department
114 from ordering different tariff filing procedures or effective dates for an
115 emerging competitive service, pursuant to a plan for an alternative
116 form of regulation of a telephone company approved by the
117 department in accordance with the provisions of section 16-247k."